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ABSTRACT

This report to the U.S. Congress by the General Accounting Office is concerned with how the Department of Education has implemented and monitored compliance with the Crime Awareness and Campus Security Act; the kinds of problems colleges are having in trying to comply with the Act; and the requirements of state laws related to public access to police records on reported campus crime. The report finds first that the Department of Education has been slow to monitor compliance and has been late in submitting required reports to Congress. Second, it finds that colleges are having difficulty applying regulatory criteria and are not reporting uniformly. Specific difficulties include excluding crime reported to campus officials other than law enforcement officials, using wrong categories to report sex-related offenses and murder, omitting hate crimes, excluding information on crimes reported to local police, and using arrest data for three reporting categories. Third, the report finds that the provisions of the states' campus crime open record laws vary. The report concludes that the two primary reasons for the conditions reported above are the differing characteristics of colleges and the confusion that exists about reporting requirements. Included in the appended material are scope and methodology information; provisions of state open campus crime record laws; and comments from the Department of Education which concurs with the report's basic conclusions. (CH)

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United States General Accounting Office

GAO

Report to Congressional Requesters

ED 405 785

ch 1997

# CAMPUS CRIME

## Difficulties Meeting Federal Reporting Requirements

HE030 056

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**United States**
**General Accounting Office**
**Washington, D.C. 20548**

**Health, Education, and**
**Human Services Division**

B-276054

March 11, 1997

The Honorable James M. Jeffords
Chairman, Committee on Labor and
Human Resources
United States Senate

The Honorable Bill Frist
United States Senate

The Crime Awareness and Campus Security Act was enacted in 1990 partly in response to a steady rise in violent crime reported on some college campuses. Recent slayings of professors and students and incidents of rape are among criminal occurrences that have caused growing concern in the college community. At the time of the law's enactment, less than 5 percent of postsecondary schools[1] participated in the Federal Bureau of Investigation's (FBI) voluntary crime reporting system.

The law and its implementing regulations encourage the development of security policies and procedures on all college campuses participating in federal student aid programs—including policies and procedures to address sexual assaults and to bring about uniformity and consistency in reporting campus crime statistics to students, parents, and employees. Advocates for this legislation hoped more complete reports would prompt actions that would reduce the incidence of crime, as well as allow individuals to better protect themselves.

During the past year, however, concern surfaced that colleges were not fully complying with campus security requirements and that the Department of Education was not doing enough to monitor and enforce compliance. Bills were introduced in the 104th Congress that would have required colleges to maintain an easily understood daily log of all crimes reported to campus police or security departments—a requirement that goes beyond the current law's requirements and is similar to those of laws enacted by several states. These state laws are referred to as "open campus crime log laws." In support of what they saw as the need for additional federal legislation, proponents of these bills pointed out that the statistics that colleges publish to conform with existing law do not provide enough information and that they are only required to be published once a year.

[1]In this report, we refer to all postsecondary institutions as "colleges."

You asked that we provide you information that would help the Congress assess the progress made under the Crime Awareness and Campus Security Act and a description of the contents of states' open campus crime log laws. In response, we developed information on

- how the Department of Education has implemented and monitored compliance with the act;
- the kinds of problems, if any, colleges are having in complying with the act; and
- the requirements of state laws related to public access to police records on reported crimes on campuses.

To develop our information, we reviewed Department of Education regulations and other policy guidance and interviewed Department officials at headquarters and regional offices. We also analyzed campus security reports of 25 colleges and interviewed campus officials of these and other colleges. We also analyzed state statutes and spoke with representatives of campus safety and related interest groups. (See app. I for details of our scope and methodology.)

## Results in Brief

Although colleges are having difficulty complying with the act, the Department only recently began a systematic effort to monitor compliance. Starting in 1991, the Department of Education issued policy guidance to colleges for implementing the law's crime reporting requirements. Since that time, the Department has also provided technical assistance to individual colleges upon request. This assistance has taken the form, for example, of responding to telephone inquiries to the Customer Support Branch of the Department's Office of Postsecondary Education.

Although the Department began issuing implementing guidance to colleges less than a year after the law was passed, the Department has only recently begun to develop procedures for its program reviewers and auditors that systematically address monitoring compliance with these requirements. Moreover, citing resource limitations, the Department delayed preparing a report on campus crime statistics for which the law prescribed a September 1995 issuance date. The Department issued the report in February 1997.

At the campus level, colleges are finding it difficult to consistently interpret and apply some of the law's reporting requirements. For

example, our analysis showed considerable variation in colleges' practices for deciding which incidents to include in their reports and what categories to use in classifying certain crimes. Areas of difficulty included deciding how to include incidents reported to campus officials other than law enforcement officers, interpreting federal requirements for reporting sexual offenses, and reporting data on hate crimes.

Federal legislation proposed in the 104th Congress would have augmented available information on campus crime by requiring that campus police records be open to the campus community. Similar laws exist in eight states. Three laws contain a specific requirement that colleges maintain daily logs. Most laws protect the identity of victims and informants from disclosure and ensure that any information that might jeopardize an ongoing investigation also remains confidential. The state laws vary in many details, such as whether identification of juvenile offenders is required and whether noncompliance by the college can result in penalties. These laws differ from the 1990 act in requiring year-round access to campus police reports rather than annual summary statistics.

## Background

The Crime Awareness and Campus Security Act of 1990 and its implementing regulations require colleges, as a condition for participating in federal financial aid programs authorized under title IV of the Higher Education Act of 1965, as amended,[2] to publish and distribute an annual security report that includes statements about campus[3] law enforcement policies, security education and crime prevention programs, alcohol and drug policies, sexual assault education and prevention programs, procedures for reporting sexual assaults, procedures explaining how reports of sexual assaults will be dealt with, and annual statistics on crime incidents. The law also requires colleges to provide timely warning to the campus community about crimes that are considered to represent a threat to other students and employees.

The law requires the collection of data on campus crime, distinct from state or local data, and that information on the incidence of campus crime

[2]Title IV authorizes the major federal student loan and grant aid programs. All colleges participating in title IV programs must sign a Program Participation Agreement certifying that they are in compliance with various requirements, including disclosure of campus security policy and crime statistics.

[3]Department regulations define "campus" as (1) any building or property owned or controlled by the college within a reasonably contiguous area and used by the college in direct support of, or in a manner related to, the college's educational purposes; (2) any building or property owned or controlled by a student organization recognized by the college; or (3) any building or property controlled by the college but owned by a third party.

and of colleges' security policies and procedures be available. The statistical reporting provision requires colleges to annually compile and report to the campus community statistics on reported crimes, such as murder and robbery, and on arrests for such crimes as liquor law violations.

As the agency administering title IV programs, the Department of Education is responsible for issuing guidance to implement the law, monitoring colleges' compliance with its requirements, and issuing two reports: a compilation of exemplary campus security practices and a report to the Congress on campus crime statistics. Procedures for monitoring compliance with title IV requirements include program reviews of selected colleges, annual independent audits of all colleges participating in title IV, and compliance reviews in response to complaints received. According to a 1996 publication of the Student Press Law Center,[4] 11 states have laws requiring schools to compile and release statistics on campus crime.

Two bills—H.R. 2416 and S. 2065—introduced in the 104th Congress would have required more detailed and current campus security records to be made accessible to the public. Although a hearing was held in the House, no further action was taken before the session's end. Had the bills been enacted, they would have applied to colleges with police or security departments and required the colleges, in addition to reporting annual crime statistics, to maintain open-to-the-public, easily understood daily logs that chronologically recorded all crimes against persons or property reported to college campus or security departments. The bills were modeled after a law that has been in effect in Tennessee since 1994.

## The Department Has Been Slow to Monitor Compliance and Report to the Congress

Department implementation of the Crime Awareness and Campus Security Act's reporting requirements has included issuing regulations; disseminating policy guidance to colleges; providing technical assistance to colleges and outreach to campus law enforcement organizations; and, to a limited extent, checking whether colleges have prepared crime statistics reports and what procedures they have used for disseminating the reports. However, because of resource constraints, the Department has only recently expanded its monitoring efforts by initiating program reviews that specifically address compliance with the act's reporting

[4]The Student Press Law Center, Covering Campus Crime: A Handbook for Journalists (Arlington, Va.: The Student Press Law Center, Inc., 1996).

requirements. Moreover, the Department was late in issuing a required report to the Congress.

## Regulatory Guidance Was Issued, and Technical Assistance Was Emphasized

Following enactment of the law in 1990, the Department issued various policy guidance documents on campus security to help colleges meet the law's requirements, as summarized in table 1. Most of the guidance was issued as Department letters. Final implementing regulations took effect in July 1994.

**Table 1: Department of Education Policy Guidance to Implement the Campus Security Act**

| Date | Type of guidance provided |
|---|---|
| March 1991 | Department letter notifying colleges to prepare, publish, and disseminate campus crime statistics (required by original statute) |
| August 1991 | Department letter revising effective date for colleges to begin compiling statistics and changing colleges' reporting period (required by statutory amendment) |
| July 1992 | Department letter expanding definition of sexual offenses category and permitting disclosure of law enforcement-related student records (required by statutory amendment) |
| July 1994 | Regulations (34 C.F.R. part 668) specifying statistical reporting requirements, deadlines, and definitions of crimes and including—for three of the categories—a requirement to report statistics on crimes evidencing prejudice (required by statutory amendment) |
| May 1996 | Department letter further clarifying reporting requirements and providing information on obtaining technical assistance and filing a complaint of noncompliance (Department initiative) |

The Department supplemented its policy guidance with technical assistance provided upon request by its Customer Support Branch. To help colleges achieve compliance, the Department emphasizes providing such assistance, rather than imposing sanctions. Under Department policy, the Secretary imposes sanctions only if a college flagrantly or intentionally violates the regulations or fails to take corrective action when required to do so. Available sanctions include fines or limitation, suspension, or termination of participation in federal financial aid programs. Department officials told us that although the Department and independent auditors had identified violations at 63 colleges since the law's enactment, as of January 1997, the Department had not imposed sanctions against any college found in noncompliance with campus security requirements.

## Monitoring Compliance Has Been Slow, and Some Problems Remain

Although the Department began issuing guidance to colleges on complying with the law in 1991, guidance for monitoring program compliance came much more slowly. The Department did not issue its first program review guidance specifically addressing campus security until September 1996. Until this recent incorporation of campus security in program review guidance, the Department's program reviewers had not emphasized monitoring campus security reports in their title IV reviews, focusing instead on compliance with other provisions of title IV. Although most of the nearly 2,800 title IV program reviews conducted between September 1992 and May 1996 found noncompliance with some title IV program requirements, only 24 of these reviews identified campus security violations.[5] Department officials told us that monitoring had generally been limited to checking whether colleges published a campus security report and had procedures for its distribution. Since no review guidance for monitoring campus security was available until September 1996, it is unlikely that the reviewers checked whether the reports contained all the required information or whether information was accurate.

Under the new monitoring guidance, program reviewers must check a college's crime report for all required information and should attempt to evaluate the procedures used to collect crime data. The accuracy of crime statistics need not be verified unless it becomes apparent from a complaint or some other source that the security report may be incomplete or inaccurate. In such cases, the Department is to take appropriate action to ensure compliance, including more thoroughly examining the statistics and, if warranted, taking formal administrative action. As of January 1997, the Department had received five complaints of noncompliance: one precipitated an in-depth campus security compliance review; the other four complaints are still being investigated.

Even with the new guidance, however, program review officials told us that staff are still having some difficulty monitoring compliance. Reasons for the difficulty include reviewers' limited experience in dealing with law enforcement matters, uncertainties about how to interpret certain definitions of reportable crimes, and differences among campuses that make evaluation difficult under a single set of program review guidelines. In the case of urban campuses, for example, reviewers may have difficulty in determining which facilities are campus related. The difficulties involving definitions and differences among colleges are discussed in more detail later in this report.

[5]Department officials said that, between May 1996 and January 1997, an additional 27 program reviews identified violations.

The Department has yet to issue guidance for independent auditors who conduct federally required annual audits of all colleges participating in title IV programs. The Department's June 1995 independent audit guide does not provide guidance to auditors on checking for campus security compliance. As of August 1996, only six audits had documented noncompliance on security matters since the act took effect, and a Department official said that most auditors participating in training sessions held in regional Inspector General offices were unaware of campus security reporting requirements, further suggesting that auditors may not be routinely scrutinizing campus security reports.[6] The Department plans to issue an updated audit guide that will explicitly refer to campus security compliance and instruct auditors to ensure that campus security reports are prepared and distributed according to federal requirements. A Department official responsible for writing the audit guide expects it to be issued some time in 1997.

## Required Report to the Congress Was Late

Although the Department issued a required report on exemplary campus security practices in September 1994, the Department was more than 1 year late in issuing a report on campus crime statistics to the Congress. The law required the Department to review campus crime statistics and issue a report to the Congress by September 1, 1995. Citing limited resources to perform such a review, the Department postponed issuing the report until February 1997.

As the basis for the report, the Department conducted a national survey on campus crime and security. A representative sample of 1,500 colleges was surveyed to establish baseline information on crime statistics by such attributes as type of school (such as 4-year public or 2-year private), nature of the campus (such as urban or rural and residential or commuter), and types of public safety employees providing campus security. Having compiled and reported the survey results, the Department plans to evaluate whether additional actions are needed at the federal level.

[6]In addition, Department officials said that campus security is not generally included in the Department's quality control reviews of independent audits.

## Colleges Are Having Difficulty Applying Regulatory Criteria and Are Not Reporting Uniformly

Our review of selected colleges' campus security reports and our interviews with selected campus officials indicate that colleges are having difficulty applying some of the law's reporting requirements. As a result, colleges are not reporting data uniformly. Of the 25 reports we reviewed, only 2 provided information in all the prescribed categories. Table 2 summarizes the principal problems colleges are having.

**Table 2: Colleges' Principal Problems in Reporting Crime Statistics**

| Problem | Reason |
|---|---|
| Excluding crimes reported to campus officials other than campus security officials | Details of crimes reported to academic officials, such as counselors, are protected from disclosure, and some campus safety officials are reluctant to report numbers they cannot verify. |
| Using incorrect categories to report sex-related offenses | Crimes to be reported in this category were amended in 1992 to provide different reporting systems for sex offenses. |
| Using an incorrect category to report murder | Some colleges are reporting deaths as homicides, which can include deaths from negligence, rather than just murders. |
| Omitting information on hate crimes | Some colleges reported that they were unaware of this requirement, which is not mentioned in the Department's letters to colleges. |
| Excluding information on crimes reported to local police | Local police records do not always lend themselves to identification and categorization of incidents at college-related facilities (such as fraternities or sororities). |
| Using arrest data to reflect reported liquor, drug, and weapons possession violations | Such factors as whether the campus police department has arrest power can affect the number of arrests reported by the school. |

### Excluding Crimes Reported to Campus Officials Other Than Law Enforcement Officials

Campus law enforcement officials differ as to whether their reported statistics must include crimes reported to them by other campus authorities without information identifying the persons involved in the reported incidents. For example, according to comments the Department received during rulemaking, students are sometimes more comfortable reporting incidents—particularly sex-related offenses—through academic rather than law enforcement channels.

The Family Educational Rights and Privacy Act (FERPA) generally prohibits the disclosure of education records or information from education

records, which originally included personally identifiable details on crime incidents. As a result of a 1992 amendment to FERPA, however, reports of incidents maintained by campus law enforcement officials for law enforcement purposes are not now classified as education information and, therefore, may be disclosed. Even incidents reported to campus authorities other than law enforcement officials may be included in the campus crime statistics as long as information identifying the persons involved is not disclosed. But reporting such incidents in the statistics is not required under a Department interpretation of the Crime Awareness and Campus Security Act. According to that interpretation, colleges may exclude from their statistics those incidents that campus law enforcement officials cannot validate because, for example, the parties' names were not disclosed.[7]

The fact that the incidents need not be reported is reflected by variations in campus security reports, as some reports excluded information from non-law-enforcement sources for which no personally identifiable information was provided. Our review of 25 reports prepared by colleges showed that some of the data may have been incomplete or incompatible because of differences in safety officials' access to information, insistence on verifiable data, or both. Six reports showed direct and varied attempts to address these differences—for example, by supplementing required crime categories with explanatory subcategories, adding a column showing incidents reported to other officials, or adding footnotes. When we asked campus law enforcement officials at the 25 colleges how they treated such cases, we found an even greater variation in their responses than in the reports. For example, nine said their numbers included incidents reported to campus officials who were not law enforcement officials without any notation to that effect, and four said their numbers excluded incidents they could not verify. Some were concerned about reporting incidents for which no details were provided because, without details on specific cases, they were unable to verify that a crime had occurred, had been properly classified, or had been counted only once—if, for example, a crime had been reported to more than one office. At some colleges, security officials do not receive even unverifiable statistics from counselors: Officials at five colleges said counselors are not required to or generally do not report incidents to them, and the general counsel of one state's higher education organization concurred in that interpretation.

[7]The preamble to the Crime Awareness and Campus Security Act regulations states that reported crimes need not be disclosed unless appropriate law enforcement officials are able to conclude, with the same degree of certainty they would require under the FBI's Uniform Crime Reporting System, that a crime has occurred.

## Using the Wrong Categories in Reporting Sex-Related Offenses and Murder

Although colleges' statistical reports included most of the prescribed criminal reporting categories, reporting officials appeared to have difficulty principally with two categories: sex offenses and murder.

In 60 percent of the reports we reviewed, colleges had difficulty complying with the reporting requirement for sex-related offenses. Colleges are required to report statistics on sexual offenses; they are not required to distinguish between forcible and nonforcible offenses.[8] Of the reports we reviewed, 15 incorrectly categorized offenses. For example, several colleges listed incidents as "rape" or "attempted rape," both of which are less inclusive than the term "forcible sexual offense."

We also noted a discrepancy in how colleges reported the number of murders. Seven of the reports we reviewed labeled incidents resulting in death as homicides, but the law requires the term "murders." According to the Uniform Crime Reporting Handbook, homicide can also include killings that result from negligence, whereas murder refers to willful killings. Because homicide is not as specific a term, the use of this broader category could obscure the actual number of murders.

## Omitting Hate Crimes

The Department's regulations for the Crime Awareness and Campus Security Act require colleges to report statistics on murders, forcible rapes, and aggravated assaults that manifest evidence of prejudice based on race, religion, sexual orientation, or ethnicity, as defined in the Hate Crimes Statistics Act. However, of the reports we reviewed, only five included this information. Eleven of the 16 officials we asked about the omission told us they were unaware of the requirement, which was not mentioned in the Department's letters explaining the statistical reporting requirements. Another two said they lacked direction on how to report these crimes.

## Excluding Information on Crimes Reported to Local Police

Although the Crime Awareness and Campus Security Act requires that crime statistics include on-campus occurrences reported to local police, our interviews with college officials and review of their statistical reports suggest that colleges vary in their inclusion of incidents reported to local police. Of the 25 reports we reviewed, 1 specifically stated that it did not include incidents reported to local police, and a second stated that it included such incidents when available. In contrast, six reports indicated

[8]Forcible sex offenses include forcible rape, forcible sodomy, sexual assault with an object, and forcible fondling. Nonforcible sex offenses comprise incest and statutory rape.

that incidents reported to local police were included. According to a law enforcement official we contacted and our analysis of a Department program review, reporting such incidents can be difficult. For example, record systems of some local police departments do not lend themselves to converting the incidents to the categories required for campus security reports. Moreover, identifying incidents at college-related facilities can be a problem when a campus is dispersed throughout a large urban area.

## Using Arrest Data for Three Reporting Categories

For three crime categories—liquor, drug, and weapons possession violations—the law requires statistics on the number of arrests, rather than on the number of reported crimes. For these categories, uniformity of statistics can be affected to some degree by school policies and type of authority of the campus security department. For example, one campus security report we reviewed contained a footnote to the effect that liquor-law violations were frequently adjudicated through campus judicial procedures and, therefore, would not be included in the arrest statistics. Three law enforcement officials told us that offenses are less likely to result in arrests on campuses that do not have security departments with the power to make arrests.

## States' Open Campus Crime Record Laws' Provisions Vary

We identified eight states that require public access to campus police or security department records on reported crimes: California, Massachusetts, Minnesota, Oklahoma, Pennsylvania, Tennessee, Virginia, and West Virginia. In all but Minnesota, the laws in general apply to all institutions of higher education, public and private. Minnesota's law applies only to public colleges.

Three of the eight states (Massachusetts, Pennsylvania, and Tennessee) have laws specifically requiring campus safety authorities to maintain daily logs open to public inspection. The remaining five, while not prescribing the log format, require disclosure of information similar to that required to be kept in the logs.

Certain provisions are common to a number of these state laws. For example, they generally contain a provision exempting disclosure that is otherwise prohibited by law. Many prohibit publication of the names of victims or of victims of sex-related crimes. Many also include some type of provision protecting witnesses, informants, or information that might jeopardize an ongoing investigation. Several law enforcement officials emphasized to us the importance of including such a provision.

The laws also differ in a number of other respects, such as the following:

- California, Pennsylvania, and Oklahoma specifically provide for penalties for noncompliance; the other states do not specify penalties.
- Only California includes a specific reference to occurrences involving hate; in fact, California's law requires inclusion of noncriminal hate-related incidents.

For more information on the eight laws, see appendix II.

We also agreed to determine whether any legal challenges had been raised to state open campus crime log laws and whether the effectiveness of such laws had been studied. We did not find any reported cases challenging these laws or any studies of their positive or negative effects.

In addition, according to the Student Press Law Center's Covering Campus Crime: A Handbook for Journalists, all 50 states have open records or "sunshine" laws, most of which require public institutions' records to be open to the public unless they are specifically exempted. Generally, public colleges are covered by those laws. For example, Colorado's open records law declares that it is public policy that all state records be open for inspection, including all writings made, maintained, or kept by the state or any agency or institution—which would include state colleges.[9] These laws generally provide that if records are kept, they must be open; the laws are not intended to impose a new recordkeeping requirement.

## Conclusions

The consistency and completeness of campus crime reporting envisioned under the act have been difficult to attain for two primary reasons. First, the differing characteristics of colleges—such as their location in an urban or other setting or the extent to which complaints may be handled through campus governance rather than through police channels—affect the colleges' ability to provide a complete and consistent picture of incidents that occur on their campuses. Second, some confusion exists about reporting requirements, particularly about how certain categories of crimes are to be classified.

The Department originally relied mostly on its regulations, letters to colleges, and technical assistance to implement the Crime Awareness and Campus Security Act. Its continued efforts in providing technical assistance to school officials, as well as its recent issuance of monitoring

[9]Colo. Rev. Stat. secs. 24-72-201 to 24-72-309.

guidance to Department officials and its current work to update audit guidelines for independent auditors, may achieve more consistent reporting and compliance with the law by colleges. For example, these efforts may improve consistency in categories used and type of crimes reported. However, inherent differences among colleges will be a long-term obstacle to achieving comparable, comprehensive campus crime statistics. Although a federal open crime log law could offer more timely access to information on campus crime and a means of verifying the accuracy of schools' statistical reports, such logs would continue to reflect the inherent differences among colleges apparent in the summary statistics currently required by the act. For example, such logs might not include off-campus incidents or, without an amendment to FERPA, incidents that students report through non-law-enforcement channels.

## Agency Comments

On February 12, 1997, the Department of Education provided comments on a draft of this report (see app. III). The Department generally agreed with our basic conclusions and provided us a number of technical comments, which we incorporated as appropriate.

We are sending copies of this report to the Secretary of Education, appropriate congressional committees, and other interested parties. Please call me at (202) 512-7014 or Joseph J. Eglin, Jr., Assistant Director, at (202) 512-7009 if you or your staff have any questions about this report. Other staff who contributed to this report are listed in appendix IV.

Carlotta Joyner

Carlotta C. Joyner
Director, Education and
Employment Issues

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**Abbreviations**

| | |
|---|---|
| FBI | Federal Bureau of Investigation |
| FERPA | Family Educational Rights and Privacy Act |
| IACLEA | International Association of Campus Law Enforcement Administrators |

# Scope and Methodology

To determine the actions the Department of Education has taken to implement and monitor compliance with the Crime Awareness and Campus Security Act, we interviewed officials at the Department's headquarters and regional offices and analyzed pertinent regulations, policy guidance, and other documents. To identify difficulties colleges were having in complying with the act, we interviewed officials at 27 colleges selected from a judgmental sample of colleges from the following four groups.

Members of the International Association of Campus Law Enforcement Administrators (IACLEA)—Ten Colleges. Our initial college law enforcement contact was the Director of Police at the University of Delaware, also a past president of IACLEA and a recognized authority on the Crime Awareness and Campus Security Act. He provided us with the names of chief law enforcement officials at eight IACLEA member colleges, one in each of the eight states with open campus police log laws. These officials, in turn, referred us to two additional member colleges.

Non-IACLEA Members in States With Open Log Laws—Eight Colleges. Using a list of non-IACLEA colleges provided by IACLEA, we selected six 4-year and two 2-year colleges representing all eight states with open log laws and spoke to their heads of campus security. All eight colleges had an enrollment exceeding 1,000 students.

Colleges in States Without Open Log Laws—Seven Colleges. From a universe of colleges representing all states, we randomly selected colleges, with enrollments exceeding 1,000 students, that participated in title IV programs from the Department's Integrated Postsecondary Education Data System, stratified by type of college (such as 4-year private or 2-year public) and geographic region. The chiefs of campus security at these seven colleges composed the third group of officials interviewed.

Colleges Involved in Complaints About Crime Statistics—Two Colleges. We included two other colleges for information on complaints regarding crime statistics. We included the first of these because a complaint had been lodged against that college. We included the second college because it was subject to the same state crime reporting system as another college—the only one that has undergone an in-depth Department review as a result of a crime statistic complaint.

In addition, we asked the campus security officials interviewed to send us a copy of their most recent campus security statistics. We received

statistical reports from 25 colleges and evaluated them to determine the extent to which the reports conformed to crime reporting requirements prescribed in the act. We did not trace the numbers to source documents to check their accuracy or completeness. We also searched the literature and reported case law to determine whether any studies had been done on the effects of or legal challenges to state open log laws. We analyzed state statutes and spoke with representatives of campus safety and other interest groups as well as faculty specializing in criminal justice.

We performed our work between June 1996 and January 1997 in accordance with generally accepted government auditing standards.

Appendix II

# Provisions of State Open Campus Crime Record Laws

| State | Date | Institutions covered | Officials involved/required actions/penalties | Information to be covered | Identification to be provided/ individuals exempted |
|---|---|---|---|---|---|
| California<br><br>Calif. Ed. Code secs. 67380 and 94380 | 1992 | Community colleges, the U. of Calif., Calif. State U., the Hastings School of Law, and all colleges receiving public funds for student financial aid<br><br>Excludes public and private colleges with <1,000 full-time students and community colleges unless legislature provides the funding to implement | Police or campus security or safety authorities: compile records and make information available, within 2 business days after the request, to the college's students, employees, applicants for admission, or the media<br><br>For private colleges other than those listed, appropriate officials shall make information available on request of students, employees, or applicants for admission<br><br>Penalty: civil damages not to exceed $1,000 if information is not made available | Financial aid colleges: occurrences reported to campus police, security, or safety authorities; arrests for campus crimes involving violence, hate violence, theft, property destruction, illegal drugs, or alcohol intoxication; and acts of hate violence for which a written record is prepared even if not criminal<br><br>Other private colleges: same, except no mention of hate violence | Financial aid colleges: identity and description of persons arrested and of victims, except name and address of victims of sex-related crimes unless with consent and not if it would endanger the person or the successful completion of the investigation or a related investigation<br><br>Other private colleges: records of all reported occurrences and arrests for crimes involving violence, theft, destruction of property, illegal drugs, or alcohol intoxication that happen on campus |
| Massachusetts<br><br>Mass. Gen. Laws Ann. sec. 41:98F | 1991 | Each college or university with enforcement officers deputized by the state | Campus enforcement officers deputized by the state: make log available to the public without charge during business hours and at other reasonable times | Easily understood chronological, daily log, including responses to valid complaints; reported crimes; and names, addresses, and charges filed against arrested persons | Names and addresses of arrested persons and charges against them<br><br>Exempts from disclosure incidents involving certain types of handicapped persons, which are to be separately maintained |

(continued)

| State | Date | Institutions covered | Officials involved/required actions/penalties | Information to be covered | Identification to be provided/ individuals exempted |
|---|---|---|---|---|---|
| Minnesota<br><br>Minn. Stat. Ann. secs. 13.32, 13.82, and 13.861 | 1993 | Public educational agencies and institutions | Providers of security services at public campuses and U. of Minn. police: make available as public records law enforcement records that are kept separate from education records and maintained solely for law enforcement purposes, including response or incident data and arrest information | Date; time; place; events in brief, including resistance encountered and weapons involvement; names and addresses of witnesses, victims, and casualties, except for protected categories; and names and locations of any health facilities to which injured parties were taken | Name, age, sex, and address of adults arrested and names and addresses of victims, witnesses, and casualties unless<br><br>—incident involved sexual misconduct,<br><br>—need to protect informant or undercover agent, or<br><br>—need to protect victim or witness when victim or witness requests privacy and convinces police disclosure poses a threat |
| Oklahoma<br><br>Okla. Stat. 1051 secs. 24A.2, 24A.3, 24A.8, and 24A.17; Okla. Stat. 74 sec. 360.17 | 1991 (under the state Open Record Law, rather than an open log law) | Public and private campuses (under the state's Campus Security Act, private colleges' police departments are public agencies for the limited purpose of crime enforcement) | Commissioned campus police officers: specified law enforcement records must be open to any person for inspection and copying during regular business hours<br><br>Public body or public official shall not be civilly liable for damages for providing the required access to public records<br><br>Penalty: violation punishable by fine not over $500, imprisonment not over 1 year, or both, and reasonable attorney fees<br><br>Records must be open, if kept; the intent is not to impose a new recordkeeping requirement | Chronological list of incidents including offense, date, time, general location, officer, brief summary of what happened, and circumstances of the arrest; arrestee description, including demographics, and conviction information | Persons arrested or convicted<br><br>Identification of other than the person arrested is required only as required by another law, if the court finds it in the public interest, or if another individual's interest outweighs the reason for denying access<br><br>Records of the Office of Juvenile Systems Oversight are exempt unless disclosure is court ordered |

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| State | Date | Institutions covered | Officials involved/required actions/penalties | Information to be covered | Identification to be provided/ individuals exempted |
|---|---|---|---|---|---|
| Pennsylvania<br><br>Penn. Consolidated Stat. Ann. 2502-3 and 2502-5 | 1994, effective 1/11/95 | All higher education institutions | Campus police or security officers: chronological logs to be public record, available for inspection without charge to the public during business hours and at other reasonable times; may charge a reasonable fee for copies<br><br>Local and state police must provide arrest information for the college to include in the log<br><br>Penalty: attorney general may bring action to compel compliance for willful violation or failure to comply promptly with a court order to comply; civil penalty of not over $10,000 | Chronological, daily log of valid complaints, reported crimes and responses, charges filed, and disposition of charges, if reasonably available | Names and addresses of arrested persons and charges against them<br><br>Identification specifically not required: any names or addresses other than those of persons arrested<br><br>Juveniles must be identified only if adjudicated as adults |
| Tennessee<br><br>49 Tenn. Code Ann. 7-2206 | Effective 1/1/94 | All higher education institutions with a police or security department | Each higher education institution with a police or security department composed of state, private, or contract employees: keep and maintain an easily understood, chronological daily log; entries are public records and are to be available free during business hours and at other reasonable times for inspection by the public | Chronological daily log of all reported crimes against persons or property, date, time, general location, charges filed, and names of arrested persons | Names and addresses of persons arrested<br><br>Information specifically not required unless otherwise provided by law: names of persons reporting, victims, witnesses, or uncharged suspects or other information related to investigation |

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| State | Date | Institutions covered | Officials involved/required actions/penalties | Information to be covered | Identification to be provided/ individuals exempted |
|---|---|---|---|---|---|
| Virginia<br><br>Private colleges: 23-232.2 Code of Va; public colleges: under Va. Freedom of Information Act [COV 2.1-342] | Private colleges: 1994; public colleges: 1992 | Public and private higher education institutions | Campus police (who must meet training and other requirements for state law enforcement officers and, in the case of public colleges, may exercise police power over any property owned or controlled by the institution and adjacent rights of way): maintain adequate arrest, investigative, reportable incident, and noncriminal incident records; records to be open, during regular business hours, to state citizens, students of the college, students' parents, and the media | Criminal incident information containing date, time, and general location of alleged crime; charges filed against arrested persons; and injuries, damages, or property loss suffered | Names and addresses of persons arrested for felonies or misdemeanors involving assault, battery, or moral turpitude<br><br>Identification not specifically required when disclosure is prohibited by law or when the information is likely to jeopardize an ongoing criminal investigation or an individual's safety or result in destruction of evidence or flight of a suspect |
| West Virginia<br><br>W. Va. Code 18B-4-5a | 1992 | All institutions of higher education | Security officer or any other officer of the institution: provide information to the public within 10 days on any properly reported, credible, alleged crimes (as defined in the federal Crime Awareness and Campus Security Act), or crimes reported by the local police as having occurred on the college's property | Nature, date, time, and general location of the criminal offense | Identification required is not specified.<br><br>Information may be withheld upon certification of need to protect the investigation, but in no event after the arrest.<br><br>Identification specifically not required: name of victim |

# Comments From the Department of Education

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF POSTSECONDARY EDUCATION

FEB 12 1997

THE ASSISTANT SECRETARY

Carlotta C. Joyner
Director, Education and Employment Issues
United States General Accounting Office
Washington, D.C. 20548

Dear Ms. Joyner:

Thank you for the opportunity to review and comment on your draft report on the Department of Education's progress in implementing the Crime Awareness and Campus Security Act (Campus Security Act), and the kinds of problems colleges were having complying with the Act (GAO/HEHS-97-52). It shows the Department is committed to providing the necessary support and guidance to ensure that postsecondary institutions are fully complying with the Act.

The Campus Security Act advanced the goal of improving campus safety by ensuring that students, parents and employees are well informed on issues important to campus safety. Your draft report discusses the provision in the Act dealing with disclosure of campus crime statistics and provides useful information about the implementation of this provision by the nation's postsecondary educational institutions and the Department's efforts to ensure compliance. This information will be very helpful in the reauthorization of this provision, which is expected to be taken up by the Congress this year. In addition, your draft report contains some very detailed information regarding state open crime log laws, which will be very helpful in advancing our understanding of how a federal open log law might operate.

However, the Campus Security Act contains other important provisions that were not addressed in your draft report. It requires a proactive consideration of campus safety issues, and encourages institutions and students to be better prepared for dealing with campus crime. The Act requires each institution to publish and distribute its campus crime statistics as part of a broader annual report to the campus community. That report must include statements about campus law enforcement policies, campus security education and prevention programs, alcohol and drug policies, sexual assault education and prevention programs, procedures for reporting sexual assaults, and procedures explaining how reports of sexual assaults will be dealt with. Preparation of their reports has required many institutions to confront and respond for the first time to these critical issues in a comprehensive manner.

The statistical reporting requirements have received much attention, though other provisions are similarly important and deserve more public recognition. The Act also requires institutions to provide a "timely warning" to the campus community about crimes, which are known to campus officials and are considered to represent a continuing threat to students and employees, in a manner that aids in the prevention of similar crimes. These additional provisions are very important for empowering students, parents and employees to deal with campus security issues.

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We concur with the basic conclusions of your draft report. The consistency and completeness of campus crime reports envisioned under the Act have been difficult to attain for two reasons: (1) difficulties associated with capturing statistics on complaints that are handled through campus governance rather than formal law enforcement channels; and, (2) confusion regarding some details of the reporting requirements. We believe that the Department's efforts to provide guidance to the higher education community, which you have detailed in your draft report, will help institutions improve the completeness and consistency of their reports. Also, the reports will improve as institutions gain more experience implementing these provisions. We note that, because the law was amended several times, the current regulatory requirements were not finalized until April 29, 1994.

We understand that you were asked by the congressional requesters to examine the effects of open campus crime logs as proposed in the 104th Congress (H.R. 2416 and S. 2065). In the draft report, you noted that you were not able to locate any studies describing the effectiveness of these state laws. We are also unaware of any such studies. Open crime log requirements under current state laws and proposed in the 104th Congress apply only to logs maintained by law enforcement units. Thus, the open log requirement would not address the problem you identified regarding institutions having difficulty capturing and disclosing incidents handled through academic channels on campus. The Act's current "timely warning" requirement, however, applies to both academic and campus security officials. Proper implementation of this provision will ensure that the campus community is fully informed of crimes considered an immediate safety threat. We have been informed by campus law enforcement officials that they find the "timely warning" provision extremely helpful in providing crucial information to the campus community, and that this provision is an important tool in their crime prevention efforts.

Again, we appreciate the opportunity to comment on the draft report. Feel free to contact me or my staff if there is anything we can do to further assist you. I look forward to receiving the final version of your report.

Sincerely,

David A. Longanecker

# GAO Contacts and Staff Acknowledgments

## GAO Contacts

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## Acknowledgments

The following staff made significant contributions to this report: Meeta Sharma, Senior Evaluator; Stanley G. Stenersen, Senior Evaluator; and Roger J. Thomas, Senior Attorney.

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